



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 4701-99

14 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by Headquarters Marine Corps dated 17 January 2000, a copy of which is enclosed and your rebuttal thereto dated 3 March 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board was aware that DD Form 214's have been issued to individuals who served in the Merchant Marine during World War II. However, this action was taken solely to establish the eligibility of those individuals for veterans' benefits. The statutes which set forth the requirements for military retirement have not been changed. Therefore, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval

record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure

1760  
MMSR-6J  
17 Jan 00


MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

Ref: (a) MM Routing Sheet of 6Jan00; Docket No. 4701-99

Encl: (1) Copy of the DoD Financial Management Reg., Sec 10202  
Par C

1. Reference (a) requested an advisory opinion on [REDACTED] request to have his records corrected to show that his prior Merchant Marine service be credited toward his retirement from the Marine Corps on 30 April 1967 for pay purposes.
2. As stated in the enclosure, [REDACTED] Merchant Marine service cannot be credited to his Marine Corps retirement for pay purposes.
3. We, regretfully, must therefore recommend that [REDACTED] petition not be granted favorable consideration.

  
J. P. RATHBUN, JR.  
Head, Separation and  
Retirement Branch  
By direction of the Commandant  
of the Marine Corps



**DEPARTMENT OF DEFENSE**

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***FINANCIAL MANAGEMENT  
REGULATION***

**VOLUME 7B**

**MILITARY PAY  
POLICY AND PROCEDURES  
FOR  
RETIRED PAY**

**JUNE 1995**

**UNDER SECRETARY OF DEFENSE  
(COMPTROLLER)**

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request for transfer, the Bureau of Naval Personnel prepares the NAVPERS Form 1830 (formerly NAVPERS Form 631), Fleet Reserve Transfer Authorization, specifying a "not earlier than date" for the member's transfer to the Fleet Reserve and sends it to the member's commanding officer. The authorization also states whether the member is entitled to extraordinary heroism pay.

(c) At the time of the member's transfer, the commanding officer completes the first endorsement area of the authorization and the disbursing officer completes the second endorsement area. The original authorization is sent to the DFAS Cleveland Center, Retired Pay Department.

(2) Marine Corps (Fleet Marine Corps Reserve):

(a) A member submits application for transfer, NAVMAC 10831 (REV 7-71), to the Commandant of the Marine Corps (Code MMSR), where it is determined if the member meets the eligibility requirements for transfer. The approval or disapproval of a request for such transfer is based on the needs of the service and the criteria in effect when the request is received.

(b) Upon approval of a member's request for transfer, the Commandant of the Marine Corps issues a letter-type order authorizing the member's release from active duty to the Fleet Marine Corps Reserve on a specified date. This order, which also states whether the member is entitled to extraordinary heroism pay, is addressed and forwarded to the member's commanding officer.

(c) At the time of member's transfer, the commanding officer issues a letter-type order effecting the member's release from active duty and transfer to the Fleet Reserve. A copy of this order is sent to the DFAS Kansas City Center, Retired Pay Branch, Centralized Pay Division.

c. **Service.** Service creditable for transfer to the Fleet Reserve/Fleet Marine Corps Reserve:

(1) This service is creditable for transfer eligibility and percentage multiple purposes: Active duty (and active duty for training after 9 Aug 1956) in the:

- (a) Army.
- (b) Navy.
- (c) Air Force.
- (d) Marine Corps.
- (e) Coast Guard and former Revenue Cutter Service.

(f) Any component of the above listed services.

1. Service as an appointed or enlisted aviation cadet in the Naval Reserve or Marine Corps Reserve is creditable.

2. Service as a cadet or midshipman at a service academy is creditable.

3. Time lost which occurred before 24 July 1956 because of confinement as a result of sentence of any court martial other than general court martial and while confined awaiting trial and during trial which results in conviction as finally approved. (Previously shown as NPDI; now shown as CONF).

(2) This service is not creditable for transfer eligibility and percentage multiple purposes:

(a) Service in the Philippine Constabulary.

(b) Furlough without pay (FWOP).

(c) Inactive service as a member of a Reserve component.

(d) Inactive service while on the Temporary Disability Retired List (TDRL).

(e) Time lost in excess of 1 day (24 consecutive hours) because of:

1. Sickness due to misconduct (SKMC). Before 17 June 1955 the Bureau of Naval Personnel credited time lost due to SKMC for transfer purposes.

2. Non-performance of duty before 24 July 1956 because imprisoned as a result of general court martial sentence and while in arrest awaiting trial and during trial which results in conviction as finally approved. Non-performance of duty after 23 July 1956, due to confinement under sentence by any court martial, as finally approved, before, during, and after trial (previously shown as NPDI; now shown as CONF). If member is acquitted or sentence is set aside and charges dismissed, period of confinement is not considered time lost.

3. Absence while in civil arrest, while in custody of civil authorities, unless member is acquitted or released without making restitution or reparation. (NPDI (CIVIL))

4. Unauthorized absence which includes absence without leave, absence over leave, and desertion (previously shown as AOL; AWOL; now shown as UA).

d. **Constructive Service.** Defined as service for which credit is given although not actually performed. Constructive service is

creditable as service for transfer eligibility and percentage multiple purposes. Constructive service is not creditable for determining basic pay rate upon which retainer pay is computed. No constructive service is to be credited after 31 Dec 1977. Constructive service earned prior to 31 Dec 1977 will be used for eligibility and percentage multiple purposes.

(1) **Minority Enlistments.** Minority enlistments are enlistments of males between ages of 14 and 18, and females between the ages of 18 and 21 who enlist with the consent of their parents or guardian to serve in the Navy or Marine Corps until they reach age 21 years. (The Navy policy is to accept men for enlistment at 17 years.) A completed minority enlistment, or a minority enlistment which terminates within 3 months of the expiration date of the enlistment, is counted as 4 years of active service when actual day-for-day service performed totals at least the period constituting the member's minority upon enlistment less 3 months.

(2) **Short-term Enlistment.** An enlistment which is terminated within 3 months before the end of the term of enlistment. A short-term enlistment is counted as active service for the full term when the actual day-for-day active service performed amounts to at least the full term of the enlistment less 3 months.

(3) **Voluntary Extensions.** Modify the original minority or term enlistment contract by increasing the period of time which the member agrees to serve. The same rule established for crediting constructive service for short-term enlistments applies for voluntary extensions.

(4) **Involuntary Extension.** When an enlistment (including a minority enlistment) is involuntarily extended for a specific period, computation of service based on the constructive service principle for short-term enlistments applies equally for computing service for transfer by the Bureau of Naval Personnel on and after 15 Mar 1966, and by the Commandant of the Marine Corps on and after 1 Jan 1968.

(a) Before 15 Mar 1966, the Bureau of Naval Personnel, in preparing Fleet Reserve Transfer Authorizations (NAVPERS Form 631, currently NAVPERS Form 1830/2) did not credit constructive service for periods of involuntary extension in computing service for transfer.

(b) A Marine is not credited with constructive service for periods of involuntary extensions in computing service for transfer before 1 Jan 1968. However, a Marine who previously

served in the United States Navy is credited constructive service performed in the Navy for periods of involuntary extensions on and after 15 Mar 1966.

(5) **Lost Time and Inactive Service.** Before crediting constructive service for a period of service, deduct any lost time (CONF, SKMC, UA) and any inactive service from the member's day-for-day service. After these deductions, if the member is eligible to receive constructive service for the period of enlistment, credit it. If after deductions the member is not eligible for constructive service for a period of enlistment, give credit only for the actual day-for-day service after the deductions.

e. **Conclusiveness of Transfer:** All transfers of members to the Fleet Reserve/Fleet Marine Corps Reserve, when effected, are conclusive for all purposes except that the Chief of Naval Personnel or the Commandant of the Marine Corps acting for the Secretary of the Navy may correct any error or omission in the determination as to a member's grade and years of creditable service. When such a correction is made, the member is entitled when not on active duty, to retainer pay based on the grade and number of years of creditable service, as corrected, from the effective date of transfer.

#### 10203. Service for Basic Pay Purposes

The total service for basic pay purposes follows the same principle as service for percentage multiple purposes. For an explanation of service creditable for basic pay purposes, see part 1, chapter 1, section B.

#### 10204. Date of Transfer

a. **Effective Date of Transfer.** Members are transferred to the Fleet Reserve/Fleet Marine Corps Reserve only upon the authority of and on the date specified by the Chief of Naval Personnel or the Commandant of the Marine Corps. Commanding officers may defer transfers to the Fleet Reserve up to 30 days beyond the date authorized when urgent operational commitments demand the member's service. Transfers to the Fleet Marine Corps Reserve may not be made on a date other than the date specified in the authority for release. Any change in this date must be authorized by the Commandant of the Marine Corps before the effective date of transfer. The date of transfer is the member's last day of active duty and the member is entitled to active duty pay and allowances for that date.